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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
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14 KENNETH MARTINEZ,

CV F 02 6619 REC LJO P

15 Plaintiff,

16 v.

ORDER STRIKING MOTION TO COMPEL
FROM RECORD (Doc. 54.)

17 J. CATHEY, SGT., et. al.,

18 Defendants.
19 _____/

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21 Kenneth Martinez ("Plaintiff") is a state prisoner proceeding pro se in this civil rights
22 action filed pursuant to 42 U.S.C. § 1983.

23 On November 5, 2004, Plaintiff filed a timely Motion to Compel Answers to Plaintiff's
24 first set of interrogatories. Plaintiff states that Defendant's answers were insufficient. Plaintiff
25 also states that he wrote to Counsel for Defendant asking for a resolution before filing his Motion
26 to Compel. A close examination of the Motion, however, reveals that Plaintiff failed to served
27 Defendants with a copy of the Motion as no proof of service is attached to the Motion filed.

28 Pursuant to the Local Rules and the Federal Rules of Civil Procedure, all pleadings filed

1 with the Court must be served on the opposing party. Local Rule 5-135(b); Fed.R.Civ.P. 5.

2 Here, however, there is no indication that the Motion was served on Defendants. Accordingly,

3 the Court HEREBY ORDERS the Motion to Compel is STRICKEN from the record.

4 IT IS SO ORDERED.

5 **Dated: September 28, 2005**
b9ed48

/s/ Lawrence J. O'Neill
UNITED STATES MAGISTRATE JUDGE